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Appl. No. 10/541,568
Reply to Office Action of May 21, 2009PATENT
Attorney Docket No.: 57.0499 US PCT**REMARKS/ARGUMENTS****Status of the Application**

Prior to the entry of this amendment, claims 1-24 were pending in this application. The Office Action objected to claims 22 and 23 for being in improper dependant form, rejected claim 19 under 35 U.S.C. § 112, second paragraph, as being indefinite, rejected claims 1, 2, 5, 10, 11, 13-18, 20, 21 and 24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,915,831 to Riseman *et al.* in combination with U.S. Patent No. 4,490,234 to Buzza, U.S. Patent App. No. 20030033848 to Peng, U.S. Patent No. 5,499,528 to Bahar, U.S. Patent No. 4,699,892 to Susuki, U.S. Patent No. 5,624,546 to Milco, U.S. Patent App. No. 20030046980 to Kiesele *et al.* and U.S. Patent No. 3,988,233 to Garner *et al.*, rejected claims 1-24 on the grounds of non-statutory obviousness-type double patenting over claims 1-27 of U.S. Patent No. 7,407,566 and rejected claims 1-4, 10, 14, 15 and 24 on the grounds of non-statutory obviousness-type double patenting over claim 1 of U.S. Patent No. 6,939,717.

The present amendment amends claim 1, 4, 15, 16 and 19, cancels claims 2, 3, 22 and 23 and adds new claims 25-37. Therefore, claims 1, 4-21 and 24-37 are presented for examination in this amendment. No new matter is added by the claim amendments or the new claims.

Claim Objections

The Office Action objected to claims 22 and 23 for being in improper dependant form. To expedite prosecution of the present application, Applicants have canceled claims 22 and 23 in the present Amendment.

35 U.S.C. § 112 Rejection

The Office Action rejected claim 19 under 35 U.S.C. § 112, second paragraph, as being indefinite. In this Amendment, Applicants have amended claim 19 to remove the language identified as being indefinite in the Office Action.

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35 U.S.C. § 103 Rejections

In the Office Action, claims 1, 2, 5, 10, 11, 13-18, 20, 21 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Riseman in combination with Buzza, Peng, Bahar, Susuki, Milco, Kiesele and Garner.

To expedite prosecution of the present application and without consideration of the merits of the Section 103 rejections, Applicants have amended independent claim 1 to include the features of claims 2 and 3. As such, Applicants respectfully submit that independent claim 1, as amended, includes the features of claim 3, which features are not, in accordance with the Office Action, found in or made obvious in view of Riseman in combination with Buzza, Peng, Bahar, Susuki, Milco, Kiesele and Garner.

In addition to amending independent claim 1, applicants have added a new claim, independent claim, claim 25, which claim is a combination of original claims 1, 10 and 12. Applicants respectfully submit that new claim 25 by including the features of claim 12 is, in accordance with the Office Action, patentable over Riseman in combination with Buzza, Peng, Bahar, Susuki, Milco, Kiesele and Garner.

Therefore, Applicants respectfully request that the Section 103 rejections be withdrawn.

Non-statutory Obviousness –Type Double Patenting

The Office Action rejected claims 1-24 of the present application on the ground of non-statutory obviousness-type double patenting over claims 1-27 of U.S. Patent No. 7,407,566. To expedite prosecution of the present application and without reviewing the merits of the rejections, Applicants are filing a terminal disclaimer with regard to U.S. Patent No. 7,407,566 herewith.

The Office Action rejected claims 1-4, 10, 14, 15 and 24 of the present application on the ground of non-statutory obviousness-type double patenting over claims 1 of U.S. Patent No. 6,939,717 ("the '717 patent"). As amended independent claim 1 of the present application

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includes one of a movable piston, partition or bellow for reducing a difference between the respective pressures on each side of the membrane and wherein the one of a movable piston, partition or bellow comprises a first pressure surface in pressure communication with the flow path and a second pressure surface in pressure communication with the chamber.

As noted in the Office Action, the '717 patent describes a sensor device that includes a piston. (See Office Action at ¶9). However, the piston of the '717 patent does not include first and second pressure surfaces on either side of a membrane where the first pressure surface is in pressure communication with the flow path and the second pressure surface is in pressure communication with the chamber so that the piston is configured to reducing a difference between the respective pressures on each side of the membrane.

To the contrary, the '717 patent teaches use of a piston without any membrane. (See '717 patent, Fig. 1 and Col. 10, line 61 through Col. 11, line 12). Moreover, the '717 patent actually teaches away from the features of independent claim 1 in that it describes using a piston to develop a pressure difference between the fluid in the flow line and an expansion volume created by the piston, rather than to equalize pressure differences in the sensor. (See '717 patent, Col. 10, line 65 through Col. 11, line 12). As such, Applicants respectfully submit that the '717 patent provides no teaching or suggestion regarding the feature of independent claim 1 of a movable piston, partition or bellow comprising a first pressure surface in pressure communication with the flow path and a second pressure surface in pressure communication with the chamber. Nor does the '717 patent provide any teaching or suggestion regarding using the movable piston, partition or bellow with two pressure surfaces to reduce a difference between the respective pressures on each side of a membrane.

Therefore, Applicants respectfully submit that independent claim 1 of the present application, as amended, is patentable over the '717 reference. Further, Applicants respectfully submit that new claim 25 is also patentable over the '717 reference as it includes the features of original claim 12 a claim that was not rejected for obviousness-type double patenting in the Office Action.

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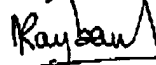
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In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

In the event that a fee or refund is due in connection with this Amendment, the Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No 19-0615. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned.

Respectfully submitted,

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